

1 AN ACT in relation to child support obligations.

2 Be it enacted by the People of the State of Illinois,
3 represented in the General Assembly:

4 Section 5. The Code of Criminal Procedure of 1963 is
5 amended by changing Sections 110-7 and 110-8 as follows:

6 (725 ILCS 5/110-7) (from Ch. 38, par. 110-7)

7 Sec. 110-7. Deposit of Bail Security.

8 (a) The person for whom bail has been set shall execute
9 the bail bond and deposit with the clerk of the court before
10 which the proceeding is pending a sum of money equal to 10%
11 of the bail, but in no event shall such deposit be less than
12 \$25. The clerk of the court shall provide a space on each
13 form for a person other than the accused who has provided the
14 money for the posting of bail to so indicate and a space
15 signed by an accused who has executed the bail bond
16 indicating whether a person other than the accused has
17 provided the money for the posting of bail. The form shall
18 also include a written notice to such person who has provided
19 the defendant with the money for the posting of bail
20 indicating that the bail may be used to pay costs, attorney's
21 fees, fines, or other purposes authorized by the court and if
22 the defendant fails to comply with the conditions of the bail
23 bond, the court shall enter an order declaring the bail to be
24 forfeited. The written notice must be: (1) distinguishable
25 from the surrounding text; (2) in bold type or underscored;
26 and (3) in a type size at least 2 points larger than the
27 surrounding type. When a person for whom bail has been set
28 is charged with an offense under the "Illinois Controlled
29 Substances Act" which is a Class X felony, the court may
30 require the defendant to deposit a sum equal to 100% of the
31 bail. Where any person is charged with a forcible felony

1 while free on bail and is the subject of proceedings under
2 Section 109-3 of this Code the judge conducting the
3 preliminary examination may also conduct a hearing upon the
4 application of the State pursuant to the provisions of
5 Section 110-6 of this Code to increase or revoke the bail for
6 that person's prior alleged offense.

7 (a-5) The clerk of the court shall require each person
8 who posts bail, whether that person is the accused or a
9 person who posts bail on behalf of the accused, to sign a
10 form provided by the clerk of the court indicating that after
11 the conditions of the bail bond have been performed and the
12 accused has been discharged from all obligations in the
13 cause, any portion or all of the bail security deposited may
14 be forfeited to the State to pay for outstanding child
15 support arrearages owed by the accused.

16 (b) Upon depositing this sum and any bond fee authorized
17 by law, the person shall be released from custody subject to
18 the conditions of the bail bond.

19 (c) Once bail has been given and a charge is pending or
20 is thereafter filed in or transferred to a court of competent
21 jurisdiction the latter court shall continue the original
22 bail in that court subject to the provisions of Section 110-6
23 of this Code.

24 (d) After conviction the court may order that the
25 original bail stand as bail pending appeal or deny, increase
26 or reduce bail subject to the provisions of Section 110-6.2.

27 (e) After the entry of an order by the trial court
28 allowing or denying bail pending appeal either party may
29 apply to the reviewing court having jurisdiction or to a
30 justice thereof sitting in vacation for an order increasing
31 or decreasing the amount of bail or allowing or denying bail
32 pending appeal subject to the provisions of Section 110-6.2.

33 (f) When the conditions of the bail bond have been
34 performed and the accused has been discharged from all

1 obligations in the cause the clerk of the court shall return
2 to the accused or to the defendant's designee by an
3 assignment executed at the time the bail amount is deposited,
4 unless the court orders otherwise and unless the accused owes
5 outstanding child support arrearages, 90% of the sum which
6 had been deposited and shall retain as bail bond costs 10% of
7 the amount deposited. However, in no event shall the amount
8 retained by the clerk as bail bond costs be less than \$5.
9 Bail bond deposited by or on behalf of a defendant in one
10 case may be used, in the court's discretion, to satisfy
11 financial obligations of that same defendant incurred in a
12 different case due to a fine, court costs, child support
13 arrearages, restitution or fees of the defendant's attorney
14 of record. The court shall not order bail bond deposited by
15 or on behalf of a defendant in one case to be used to satisfy
16 financial obligations of that same defendant in a different
17 case until the bail bond is first used to satisfy court costs
18 in the case in which the bail bond has been deposited and any
19 outstanding child support arrearages.

20 At the request of the defendant the court may order such
21 90% of defendant's bail deposit, or whatever amount is
22 repayable to defendant from such deposit, to be paid to
23 defendant's attorney of record.

24 (g) If the accused does not comply with the conditions
25 of the bail bond the court having jurisdiction shall enter an
26 order declaring the bail to be forfeited. Notice of such
27 order of forfeiture shall be mailed forthwith to the accused
28 at his last known address. If the accused does not appear
29 and surrender to the court having jurisdiction within 30 days
30 from the date of the forfeiture or within such period satisfy
31 the court that appearance and surrender by the accused is
32 impossible and without his fault the court shall enter
33 judgment for the State if the charge for which the bond was
34 given was a felony or misdemeanor, or if the charge was

1 quasi-criminal or traffic, judgment for the political
2 subdivision of the State which prosecuted the case, against
3 the accused for the amount of the bail and costs of the court
4 proceedings; however, in counties with a population of less
5 than 3,000,000, instead of the court entering a judgment for
6 the full amount of the bond the court may, in its discretion,
7 enter judgment for the cash deposit on the bond, less costs,
8 retain the deposit for further disposition or, if a cash bond
9 was posted for failure to appear in a matter involving
10 enforcement of child support or maintenance, the amount of
11 the cash deposit on the bond, less outstanding costs, may be
12 awarded to the person or entity to whom the child support or
13 maintenance is due. The deposit made in accordance with
14 paragraph (a) shall be applied to the payment of costs. If
15 judgment is entered and any amount of such deposit remains
16 after the payment of costs it shall be applied to payment of
17 the judgment and transferred to the treasury of the municipal
18 corporation wherein the bond was taken if the offense was a
19 violation of any penal ordinance of a political subdivision
20 of this State, or to the treasury of the county wherein the
21 bond was taken if the offense was a violation of any penal
22 statute of this State. The balance of the judgment may be
23 enforced and collected in the same manner as a judgment
24 entered in a civil action.

25 (h) After a judgment for a fine and court costs or
26 either is entered in the prosecution of a cause in which a
27 deposit had been made in accordance with paragraph (a) the
28 balance of such deposit, after deduction of bail bond costs,
29 shall be applied to the payment of the judgment.

30 (Source: P.A. 91-94, eff. 1-1-00; 91-183, eff. 1-1-00; 92-16,
31 eff. 6-28-01.)

32 (725 ILCS 5/110-8) (from Ch. 38, par. 110-8)

33 Sec. 110-8. Cash, stocks, bonds and real estate as

1 security for bail.

2 (a) In lieu of the bail deposit provided for in Section
3 110-7 of this Code any person for whom bail has been set may
4 execute the bail bond with or without sureties which bond may
5 be secured:

6 (1) By a deposit, with the clerk of the court, of an
7 amount equal to the required bail, of cash, or stocks and
8 bonds in which trustees are authorized to invest trust funds
9 under the laws of this State; or

10 (2) By real estate situated in this State with
11 unencumbered equity not exempt owned by the accused or
12 sureties worth double the amount of bail set in the bond.

13 (b) If the bail bond is secured by stocks and bonds the
14 accused or sureties shall file with the bond a sworn schedule
15 which shall be approved by the court and shall contain:

16 (1) A list of the stocks and bonds deposited
17 describing each in sufficient detail that it may be
18 identified;

19 (2) The market value of each stock and bond;

20 (3) The total market value of the stocks and bonds
21 listed;

22 (4) A statement that the affiant is the sole owner
23 of the stocks and bonds listed and they are not exempt
24 from the enforcement of a judgment thereon;

25 (5) A statement that such stocks and bonds have not
26 previously been used or accepted as bail in this State
27 during the 12 months preceding the date of the bail bond;
28 and

29 (6) A statement that such stocks and bonds are
30 security for the appearance of the accused in accordance
31 with the conditions of the bail bond.

32 (c) If the bail bond is secured by real estate the
33 accused or sureties shall file with the bond a sworn schedule
34 which shall contain:

- 1 (1) A legal description of the real estate;
 - 2 (2) A description of any and all encumbrances on
3 the real estate including the amount of each and the
4 holder thereof;
 - 5 (3) The market value of the unencumbered equity
6 owned by the affiant;
 - 7 (4) A statement that the affiant is the sole owner
8 of such unencumbered equity and that it is not exempt
9 from the enforcement of a judgment thereon;
 - 10 (5) A statement that the real estate has not
11 previously been used or accepted as bail in this State
12 during the 12 months preceding the date of the bail bond;
13 and
 - 14 (6) A statement that the real estate is security
15 for the appearance of the accused in accordance with the
16 conditions of the bail bond.
- 17 (d) The sworn schedule shall constitute a material part
18 of the bail bond. The affiant commits perjury if in the sworn
19 schedule he makes a false statement which he does not believe
20 to be true. He shall be prosecuted and punished accordingly,
21 or, he may be punished for contempt.
- 22 (e) A certified copy of the bail bond and schedule of
23 real estate shall be filed immediately in the office of the
24 registrar of titles or recorder of the county in which the
25 real estate is situated and the State shall have a lien on
26 such real estate from the time such copies are filed in the
27 office of the registrar of titles or recorder. The registrar
28 of titles or recorder shall enter, index and record (or
29 register as the case may be) such bail bonds and schedules
30 without requiring any advance fee, which fee shall be taxed
31 as costs in the proceeding and paid out of such costs when
32 collected.
- 33 (f) When the conditions of the bail bond have been
34 performed and the accused has been discharged from his

1 obligations in the cause, the clerk of the court shall return
2 to him or his sureties the deposit of any cash, stocks or
3 bonds. If the bail bond has been secured by real estate the
4 clerk of the court shall forthwith notify in writing the
5 registrar of titles or recorder and the lien of the bail bond
6 on the real estate shall be discharged.

7 (g) If the accused does not comply with the conditions
8 of the bail bond the court having jurisdiction shall enter an
9 order declaring the bail to be forfeited. Notice of such
10 order of forfeiture shall be mailed forthwith by the clerk of
11 the court to the accused and his sureties at their last known
12 address. If the accused does not appear and surrender to the
13 court having jurisdiction within 30 days from the date of the
14 forfeiture or within such period satisfy the court that
15 appearance and surrender by the accused is impossible and
16 without his fault the court shall enter judgment for the
17 State against the accused and his sureties for the amount of
18 the bail and costs of the proceedings; however, in counties
19 with a population of less than 3,000,000, if the defendant
20 has posted a cash bond, instead of the court entering a
21 judgment for the full amount of the bond the court may, in
22 its discretion, enter judgment for the cash deposit on the
23 bond, less costs, retain the deposit for further disposition
24 or, if a cash bond was posted for failure to appear in a
25 matter involving enforcement of child support or maintenance,
26 the amount of the cash deposit on the bond, less outstanding
27 costs, may be awarded to the person or entity to whom the
28 child support or maintenance is due.

29 (g-5) The State shall have a lien on all bail security
30 posted by or on behalf of the accused in an amount equal to
31 the past-due child support owing under an order entered under
32 the Illinois Public Aid Code, the Illinois Marriage and
33 Dissolution of Marriage Act, the Non-Support of Spouse and
34 Children Act, the Non-Support Punishment Act, the Uniform

1 Interstate Family Support Act, the Illinois Parentage Act of
2 1984, the Illinois Domestic Violence Act of 1986, or Article
3 112A of the Code of Criminal Procedure of 1963.

4 (h) When judgment is entered in favor of the State on
5 any bail bond given for a felony or misdemeanor, or judgement
6 for a political subdivision of the state on any bail bond
7 given for a quasi-criminal or traffic offense, the State's
8 Attorney or political subdivision's attorney shall forthwith
9 obtain a certified copy of the judgment and deliver same to
10 the sheriff to be enforced by levy on the stocks or bonds
11 deposited with the clerk of the court and the real estate
12 described in the bail bond schedule. Any cash forfeited under
13 subsection (g) of this Section shall be used to satisfy the
14 judgment and costs and, without necessity of levy, ordered
15 paid into the treasury of the municipal corporation wherein
16 the bail bond was taken if the offense was a violation of any
17 penal ordinance of a political subdivision of this State, or
18 into the treasury of the county wherein the bail bond was
19 taken if the offense was a violation of any penal statute of
20 this State, or to the person or entity to whom child support
21 or maintenance is owed if the bond was taken for failure to
22 appear in a matter involving child support or maintenance.
23 The stocks, bonds and real estate shall be sold in the same
24 manner as in sales for the enforcement of a judgment in civil
25 actions and the proceeds of such sale shall be used to
26 satisfy all court costs, prior encumbrances, if any, and from
27 the balance a sufficient amount to satisfy the judgment shall
28 be paid into the treasury of the municipal corporation
29 wherein the bail bond was taken if the offense was a
30 violation of any penal ordinance of a political subdivision
31 of this State, or into the treasury of the county wherein the
32 bail bond was taken if the offense was a violation of any
33 penal statute of this State. The balance shall be returned to
34 the owner. The real estate so sold may be redeemed in the

1 same manner as real estate may be redeemed after judicial
2 sales or sales for the enforcement of judgments in civil
3 actions.

4 (i) No stocks, bonds or real estate may be used or
5 accepted as bail bond security in this State more than once
6 in any 12 month period.

7 (Source: P.A. 89-469, eff. 1-1-97.)

8 Section 99. Effective date. This Act takes effect upon
9 becoming law.